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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Petition to Revoke Probation
Against,

Case No. 2006-199

12 **DAYLA JENE DIRKSE TETLEY, AKA**
13 **DAYLA JENE DIRKSE, AKA**
14 **DAYLA TETLEY**
3040 Argonaut Avenue
Rocklin, California 95677
15 Registered Nursing License No. RN 383122

PETITION TO REVOKE PROBATION

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Petition to Revoke
21 Probation solely in her official capacity as the Interim Executive Officer of the Board of
22 Registered Nursing ("Board"), Department of Consumer Affairs.

23 **Registered Nurse License**

24 2. On or about March 31, 1985, the Board issued Registered Nursing License Number
25 RN 383122 to Dayla Jene Kirkse Tetley, also known as Dayla Jene Dirkse and Dayla Tetley
26 ("Respondent"). The registered nursing license was in effect at all times relevant to the charges
27 brought herein and will expire on October 31, 2010, unless renewed.
28

1 **Prior Discipline**

2 3. In a disciplinary action entitled "In the Matter of the Accusation against Dayla Jene
3 Dirkse Tetley, Case No. 2006-199, the Board of Registered Nursing, issued a decision, effective
4 February 5, 2007, in which Respondent's Registered Nursing License was revoked. However, the
5 revocation was stayed and Respondent was placed on probation for a period of three (3) years
6 with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
7 incorporated herein by reference.

8 **JURISDICTION**

9 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent
10 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
11 inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of
12 the Nursing Practice Act.

13 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
14 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
15 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
16 (b), the Board may renew an expired license at any time within eight years after the expiration.

17 6. Grounds exist for revoking the probation and reimposing the order of revocation of
18 Respondent's Registered Nurse License Number RN 383122. Condition 12 of the Decision
19 states:

20 If a respondent violates the conditions of this probation, the Board, after
21 giving respondent notice and an opportunity to be heard, may set aside the stay order
22 and impose the stayed revocation of respondent's license, or reimpose probation
 under the same or additional or other terms and conditions as the Board, in its
 discretion, determines appropriate under the circumstances.

23 If during the period of probation, an accusation or petition to revoke
24 probation has been filed against respondent's license or the Attorney General's Office
25 has been requested to prepare an accusation or petition to revoke probation against
 respondent's license, the probationary period shall automatically be extended and
 shall not expire until the accusation or petition has been acted upon by the Board.

26 7. Respondent has violated the Probation Program, as more particularly set forth in the
27 following paragraphs:
28

1 11. Respondent's probation is subject to revocation because she failed to comply with
2 Probation Condition 10, referenced above. The facts and circumstances regarding this violation
3 are that Respondent failed to enroll and complete the course entitled "Legal Aspects of Nursing."

4 THIRD CAUSE TO REVOKE PROBATION

5 (Failure to Pay Board Costs)

6 12. At all times after the effective date of Respondent's probation, Condition 11, stated:

7 Respondent shall pay to the Board costs associated with its investigation
8 and enforcement pursuant to Business and Professions Code section 125.3 in the
9 amount of \$1,606. Respondent shall be permitted to pay these costs in a payment
plan approved by the Board, with payments to be completed no later than three
months prior to the end of the probation term.

10 If respondent has not complied with this condition during the
11 probationary term, and respondent has presented sufficient documentation of good
12 faith efforts to comply with this condition, and if no other conditions have been
13 violated, the Board, in its discretion, may grant an extension of the respondent's
probation period up to one year without further hearing in order to comply with this
condition. During the one year extension, all original conditions of probation will
apply.

14 13. Respondent's probation is subject to revocation because she failed to comply with
15 Probation Condition 11, referenced above. The facts and circumstances regarding this violation
16 are that Respondent failed to pay any portion of the \$1,606 owed to the Board for its costs.

17 FOURTH CAUSE TO REVOKE PROBATION

18 (Failure to Submit to Drug Screenings)

19 14. At all times after the effective date of Respondent's probation, Condition 17, stated:

20 Respondent, at his/her expense, shall participate in random, biological
21 fluid testing or a drug screening program which the Board approves. The length of
time and frequency will be subject to approval by the Board. Respondent is
22 responsible for keeping the Board informed of respondent's current telephone number
at all times. Respondent shall also ensure that messages may be left at the telephone
23 number when she is not available and ensure that reports are submitted directly by the
testing agency to the Board, as directed. Any confirmed positive finding shall be
24 reported immediately to the Board by the program and respondent shall be considered
in violation of probation.

25 In addition, respondent, at any time during the period of probation, shall
26 fully cooperate with the Board or any of its representatives, and shall, when
requested, submit to such tests and samples as the Board or its representatives may
27 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
controlled substances.

28 ///

1 If respondent has a positive drug screen for any substance not legally
2 authorized and not reported to the coordinating physician, nurse practitioner, or
3 physician assistant, and the Board files a petition to revoke probation or an
4 accusation, the Board may suspend respondent from practice pending the final
5 decision on the petition to revoke probation or the accusation.

6 15. Respondent's probation is subject to revocation because she failed to comply with
7 Probation Condition 17, referenced above. The facts and circumstances regarding this violation
8 are that Respondent failed to call in and submit to random drug screenings on the following dates:

9 June 6, 2007; February 21, 2008; April 10, 2008; July 9, 2008; August 1,
10 2008; October 31, 2008; March 13, 2009; May 13, 2009; May 15, 2009; May 25,
11 2009; June 3, 2009; July 29, 2009; August 13, 2009; September 7, 2009; September
12 10, 2009; October 4, 2009; October 10, 2009; October 11, 2009; October 20, 2009;
13 October 29, 2009; November 8, 2009; November 14, 2009; November 22, 2009;
14 November 23 – December 2, 2009 account suspended due to non-payment; December
15 6, 2009; December 17, 2009; December 31, 2009; January 3, 2010; January 8, 2010;
16 January 9, 2010; January 17, 2010; January 22, 2010; February 7, 2010; and
17 February 21, 2010.

18 FIFTH CAUSE TO REVOKE PROBATION

19 (Failure to Comply with the Probation Program)

20 16. At all times after the effective date of Respondent's probation, Condition 2, stated:

21 Respondent shall fully comply with the conditions of the Probation
22 Program established by the Board and cooperate with representatives of the Board in
23 its monitoring and investigation of the respondent's compliance with the Board's
24 Probation Program. Respondent shall inform the Board in writing no more than 15
25 days of any address change and shall at all times maintain an active, current license
26 status with the Board, including during the period of suspension.

27 17. Respondent's probation is subject to revocation because she failed to comply with
28 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
are that Respondent failed to comply with the Board's Probation Program, as more particularly
set forth in paragraphs 9, 11, 13, and 15, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking the probation that was granted by the Board of Registered Nursing in Case
No. 2006-199 and imposing the disciplinary order that was stayed thereby revoking Registered

ANNOUNCED
SIXTEEN SEPTEMBER 2009

JUL 15 11 21 AM

1 Nursing License No. RN 383122 issued to Dayla Jene Dirkse Tetley, also known as Dayla Jene
2 Dirkse and Dayla Tetley;

3 2. Revoking or suspending Registered Nursing License No. RN 383122, issued to Dayla
4 Jene Dirkse Tetley, also known as Dayla Jene Dirkse and Dayla Tetley; and,

5 3. Taking such other and further action as deemed necessary and proper.

6
7
8 DATED:

3/29/10

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2006-199

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DAYLA JENE DIRKSE TETLEY
3040 Argonaut Avenue
Rocklin, CA 95677

Case No. 2006-199

OAH No. N2006060651

Registered Nurse License No. 383122

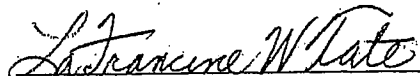
Respondent.

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on February 5, 2007.

IT IS SO ORDERED January 5, 2007.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DAYLA JENE DIRKSE TETLEY, a.k.a.
DAYLA JENE DIRKSE, a.k.a.
DAYLA J. MEYERS
3022 Springview Meadows Dr.
Rocklin, CA 95677,

Respondent.

OAH No. N2006060651

Agency Case. No. 2006-199

PROPOSED DECISION

This matter was heard before Marilyn A. Woollard, Administrative Law Judge (ALJ) for the Office of Administrative Hearings (OAH), State of California, on October 24, 2006, in Sacramento, California.

Supervising Deputy Attorney General Arthur D. Taggart represented complainant Ruth Ann Terry, M.P.H., R.N., in her official capacity as the Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.

Edgardo Gonzalez, Attorney at Law, represented respondent Dayla Jene Dirkse Tetley, who was present at the hearing.

Oral and documentary evidence was received. At the conclusion of the hearing, the record closed and the matter was submitted for decision.

FINDINGS OF FACT

1. On March 31, 1985, the Board issued Registered Nurse (RN) License Number 383122 to Dayla Tetley. Ms. Tetley's renewed license, which was issued under her maiden name of Dayla Jene Dirkse, was set to expire during the pendency of this matter, on October 31, 2006.

In December 1993, respondent was issued a license to practice as an RN by the Washington State Nursing Quality Assurance Commission (Commission), under a previous married name of Dayla J. Meyers.

2. *Case Number 01-01-A-1021 RN:* On March 20, 2001, the Commission filed and served a Statement of Charges against respondent regarding her conduct while employed as an RN at a hospital in Tacoma during a two month period from December 1997 through January 1998. Respondent was alleged to have diverted Nubain (nalbuphine hydrochloride) from patient supplies and from her employer's Pyxis machine using the name of another nurse, and used the Nubain for her own non-therapeutic purposes. The Commission alleged that respondent admitted to diverting the Nubain for her own use. Respondent did not respond to the Statement of Charges.

On May 17, 2001, the Commission issued its Final Order on Default. It concluded that respondent had engaged in unprofessional conduct based upon these uncontroverted allegations. Respondent's license to practice as an RN in the State of Washington was suspended indefinitely. Respondent was allowed to request a modification of this order on a demonstration of general fitness and competency to practice as an RN.

3. *Case Number 02-10-A-1011RN:* On November 2, 2001, respondent filed a written request for modification of the May 2001 order with the Commission. On April 29, 2002, the Commission issued a Modified Agreed Order, pursuant to which respondent was issued a probationary RN license for a minimum of 36 months, subject to conditions, including conditions that respondent:

- (a) continue to participate in substance abuse treatment and monitoring with Dr. Peter Mezciems, and submit quarterly reports of treatment from both herself and Dr. Mezciems;
- (b) abstain from the use of non-therapeutic drugs and report the use of any prescribed controlled substances to the Commission;
- (c) participate "in random and observed biological fluid testing specifically for substance(s) of abuse at her own expense at least twenty-four (24) times a year," unless otherwise directed. "Testing shall take place only at a facility approved in advance by the Commission."
- (d) attend addiction support group meetings at least two times per week and submit reports verifying regular attendance.
- (e) not work unless she has a worksite monitor; not work where she is unsupervised, has access to narcotics, or is the only RN.

On April 24, 2003, the Commission issued a Stipulated Findings of Fact, Conclusions of Law, and Agreed Order in this matter, based upon respondent's failure to comply with conditions of probation (a) and (d), and her failure to submit a job description, quarterly work performance evaluation reports, evidence of her employer's knowledge of the Agreed Order on Modification, and her failure to maintain an active RN license in the State of Washington. Pursuant to the Stipulated Order, respondent was placed on 24 months of probation and required to have her nursing supervisor submit quarterly performance evaluation reports. Respondent was also ordered to

undergo random urinalysis testing for substances of abuse at least twenty-four times per year. Respondent shall cause the tester to submit the drug screen reports to the Commission as soon as practical after testing. The first test results are due within three weeks from the date the Order is entered, then regularly thereafter. Respondent must continue the urinalysis drug screen testing for the full twenty-four month period of probation.

4. *Case Number 03-10-A-1045RN*: On December 4, 2003, the Commission filed a Statement of Charges against respondent for her failure to comply with conditions of probation. Respondent submitted her answer to the Statement and waived hearing. On January 22, 2004, the Commission issued its Findings of Fact, Conclusions of Law, and Final Order in which it found that respondent had engaged in unprofessional conduct by failing to comply with probation requirements to comply with random urinalysis testing twenty-four times a year, and to have her employer submit performance evaluations. Respondent's RN license was suspended indefinitely and she was ordered to pay costs.

5. On April 21, 2006, complainant filed the Accusation in this matter, and alleged that respondent's license is subject to disciplinary action by the Board for unprofessional conduct under Business and Professions Code section 2761, subdivision (a)(4). Complainant requested orders revoking or suspending respondent's license, based upon disciplinary actions taken against her by the Washington Commission, as described in Findings 2 through 4, above. Complainant also requested an order that respondent pay reasonable costs incurred by the Board in its investigation and enforcement of this matter.

6. On May 9, 2006, respondent filed her Notice of Defense to the Accusation.

7. At the hearing on this matter, complainant introduced certified copies of the Commission's disciplinary proceedings and orders in Case Numbers 01-01-A-1021 RN, 03-10-A-1045RN, and 03-10-A-1045RN. Respondent admitted that she had diverted medications from work for her personal use in December 1997 and

January 1998, and agreed that her Washington RN license had been disciplined as indicated in these certified records.

Evidence of Costs

8. Complainant provided a certification of its costs, outlined in a declaration under penalty of perjury executed by supervising deputy attorney general Arthur Taggart. Pursuant that declaration, the total costs for Mr. Taggart's legal services and those of his legal assistant in this matter were \$1,606. The declaration itemized the amount of time and the type of tasks performed. It was supported by a "Cost-of-Suit" summary from the Department of Justice. The declaration established the reasonableness of costs incurred by the Board in the investigation and prosecution of this case.

Evidence of Rehabilitation

9. Following her licensure in 1985, respondent worked as a nurse in California. In 1997, respondent moved to Washington State, where she worked as an RN from 1997 to 1999. In 1999 and 2000, respondent worked as a licensed nurse in British Columbia, Canada. She then entered a recovery program in Ontario, Canada and did not return to work as a nurse until she and her husband moved back to California in 2005.

10. Since early adolescence, respondent has taken Tylenol with codeine for migraine headaches. At college, respondent began to drink to excess after she was raped. In the early 1990s, respondent used cocaine for three months. She stopped using cocaine and seeing the friend who provided it to her when she realized it was becoming addictive.

According to respondent, Nubain is typically used as an anti-nausea drug, but it falls under the category of opiates. Respondent used Nubain to avoid dealing with her emotions. It gave her a sense of euphoria without drowsiness, and its effects lasted for approximately one hour. She did not drink while using Nubain, and did not take it while at work as an RN.

11. After respondent had been confronted about diverting Nubain in 1998, she completed a 28-day recovery program in Washington. Respondent later began working as an RN in British Columbia, Canada, where she relapsed to using opioids, including Demerol, Morphine, and Tylenol with Codeine. In March of 2000, respondent was confronted about diverting drugs. After respondent admitted that she had done so, she was required to attend a treatment program in Ontario.

12. On November 1, 2000, respondent entered an inpatient addiction recovery program [HADS] run by Homewood Health Centre, Inc., in Guelph, Ontario. Respondent completed this program on November 29, 2000. The HADS

discharge report indicated that respondent had engaged well in her program and in 12-Step meetings but needed ongoing support to avoid relapse. Consequently, respondent was transferred to Homewood's in-house Post Traumatic Stress Recovery Program to address the underlying emotional issues from her rape, relationships, and recent birth of a son with spina bifida.

13. At Homewood Health Centre, respondent participated in individual counseling with Dr. Peter E. Mezciems, who had extensive experience in addiction medicine, and she attended the weekly Caduceus Group for recovering health professionals that Dr. Mezciems supervised. Dr. Mezciems corresponded on three occasions with Washington's Nursing Commission and its attorney about respondent's progress in treatment.

On January 20, 2002, Dr. Mezciems reported that he saw respondent weekly at the Caduceus Group and also had individual therapy sessions with her once every few months. He characterized respondent as having been "in a committed recovery program since her initial treatment," and indicated that he observed no evidence of use of drugs or alcohol.

On March 8, 2002, Dr. Mezciems provided greater detail about respondent's personal addiction history and her participation in Caduceus Group and individual sessions. He noted that respondent had moved back to British Columbia after she completed the Trauma group; however, once she realized she required ongoing recovery support, respondent moved back to Guelph. Dr. Mezciems reported that respondent continued to participate in Caduceus group therapy, a 12-Step program, and Alanon. While he agreed that respondent needed to "tighten up the random urine testing," Dr. Mezciems observed her behavior to be consistent with a clean recovery program.

On September 1, 2003, Dr. Mezciems provided attendance data for respondent's participation in group and individual counseling. Some attendance issues were apparent; however, Dr. Mezciems reported that respondent "has given every impression of being abstinent from mood altering drugs." He opined that respondent did not represent a danger to potential patients or employers if she was licensed as an RN.

14. In 2004, Dr. Mezciems died. Dr. Graeme Cunningham, a clinical psychiatrist, assumed supervision for respondent's treatment at Homewood at the request of the Ontario Registration Committee for the College of Nurses (Committee). On July 30, 2004, Dr. Cunningham confirmed respondent's diagnosis as one of "opioid dependency." While respondent "had been intermittent in her treatment commitment," a clear recovery plan was established, to maintain her sobriety begun on October 20, 2000. Additional random drug testing through her family doctor, continued engagement with her sponsor, 12-Step programs, and Caduceus group were to be supplemented by individual sessions with Dr. Cunningham every two to three

weeks. Dr. Cunningham recommended that respondent not be allowed to administer drugs, be a charge nurse, or handle narcotics keys in any employment as a nurse.

On November 10, 2004, Dr. Cunningham reported to the Committee that respondent "ha[d] just celebrated four years of continuous abstinence from drugs and alcohol." Dr. Cunningham advised that respondent was regularly attending the Health Professional Support Group, a number of 12-Step meetings a week, and had tested negative on random urinalysis. He recommended that the Committee revisit her licensure.

15. Respondent has not used drugs or alcohol since October 20, 2000, and considers this to be her "sobriety date." Since that date, respondent has occasionally been prescribed narcotic pain medications for medical purposes. For example, she has recently experienced a back injury, and was prescribed both a muscle relaxant and a narcotic pain medication. Respondent took the narcotic only when the pain was very intense. The use of a prescribed drug under supervision of a doctor is not considered a breach of sobriety in Narcotics Anonymous (NA).

16. Respondent testified that she did not comply with her first probation in Washington State, because she was living in British Columbia and then moved to Ontario to complete the inpatient treatment program.

Respondent did not fulfill on her second Washington probation because she failed to comply with the requirement for 24 random drug tests a year for two years. According to respondent, Canada's drug testing was paid through their national health care system and the Canadian government would not use the testing kits from the Virginia testing company that Washington had contracted to use.

Respondent's testimony was corroborated by a June 25, 2004, letter from Adena Nolet, Compliance Officer for the Washington Department of Health, Health Professions Quality Assurance Division, regarding the Order in Case Number 03-10-A-1045RN. Ms. Nolet wrote to respondent:

Unfortunately, because you are living in Canada, I have been unsuccessful finding a method for you to undergo random, observed urinalysis testing.

Your Final Order requires you to provide proof of twenty-four (24) consecutive months of sobriety. However, it does not specify the manner in which you are to do so. My recommendation is to search for and enter an appropriate substance abuse treatment program which includes random, observed urinalysis testing as part of their regimen.

17. Respondent provided copies of 15 negative drug testing reports from Canadian laboratories conducted from January 2002 through October 2004. Fourteen of the tests were conducted in 2003 and 2004. The presence of triazadone and venlafaxine, both non-narcotic prescription antidepressant medications, were reported on several of the tests. Respondent expressed her intent to reengage in drug testing and complete her Washington probation.

18. Following her return to California in March of 2005, respondent worked as a nurse at the Sutter Auburn Faith Hospital in Auburn. She left this position voluntarily after three months. Respondent then worked briefly as the assistant director of nursing at a skilled nursing facility in Sacramento.

In November 2005, respondent took her current position as a staff nurse at Life Masters, a disease management company that performs patient education and disease management throughout the nation via telephone consultation. Respondent enjoys the teaching aspects of this position, in which she does not experience the level of stress involved in face to face patient care. Respondent does not dispense any medications and no narcotics are maintained at this facility. She has become licensed in other states as a job requirement.

19. Two of respondent's mentors and coworkers at Life Masters, Lori Sage and Gina Cronrath, testified on her behalf. Neither of these witnesses has ever observed respondent to be under the influence of alcohol or drugs, or to have erratic behavior that might suggest such usage. Both are aware of respondent's ongoing participation in the "Celebrate Recovery!" program at area churches.

20. Respondent's husband Greg Tetley, has observed respondent's commitment to recover since 2001, her involvement in her church and in the weekly "Celebrate Recovery!" meetings.

21. Respondent's failure to comply with her Washington probation is a serious matter. Nevertheless, respondent has made significant efforts to rehabilitate from her acknowledged addiction to controlled substances. The weight of the evidence supports respondent's six years of sobriety and her ongoing commitment to her recovery. Respondent is candid and insightful about her addiction and the underlying causes of her addiction. Respondent accepts responsibility for her actions. On balance, it would not be against the public interest to grant her a probationary license, with conditions including ongoing random drug testing and clearing her Washington license.

CONCLUSIONS OF LAW

1. In an Accusation seeking to revoke, suspend, or otherwise discipline respondent's professional license, the Board has the burden of proof to establish the

allegations in the Accusation by "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal. App. 3d 853, 856.)

2. Business and Professions Code Section 2750, provides in pertinent part:

Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article. As used in this article, "license" includes certificate, registration, or any other authorization to engage in practice regulated by this chapter.

3. Business and Professions Code Section 2764 provides:

The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, . . . shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.

4. Business and Professions Code Section 2761 provides that the Board may take disciplinary action against a licensed nurse on any of the following grounds, including:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

[¶] . . . [¶]

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

[¶] . . . [¶]

5. As set forth in Factual Findings 1 through 7 and Conclusions of Law 1 through 4, complainant has established by clear and convincing evidence that respondent engaged in unprofessional conduct by virtue of the suspensions and disciplinary actions taken against her RN license by the State of Washington in their Case Numbers 01-01-A-1021 RN, 03-10-A-1045RN, and 03-10-A-1045RN.

6. Pursuant to Business and Professions Code section 125.3, and as set forth in Factual Finding 8, complainant is entitled to reasonable costs of investigation and prosecution of this case in the total amount of \$ 1,606, from the respondent.

9. California Code of Regulations, title 16, Section 1444.5, provides:

in reaching a decision on a disciplinary action under the Administrative Procedure Act . . . , the Board shall consider the disciplinary guidelines entitled: "Recommended Guidelines for Disciplinary Orders and Conditions of Probation" (10/02) which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board in its sole discretion determines that the facts of the particular case warrant such a deviation--for example: the presence of mitigating factors; the age of the case; evidentiary problems.

10. Respondents' failure to comply with the terms of her probation in Washington on two different occasions is of great concern. As set forth in Factual Findings 9 through 21, however, respondent has made substantial efforts to rehabilitate from her acknowledged addiction to controlled substances. She has not used controlled substances since October 2000, and has attended intensive therapeutic intervention in the form of inpatient and outpatient treatment, individual and group therapy, 12-Step recovery, and church-based programs. Respondent has gained significant insight into her life stressors and has prioritized her recovery. After considering the facts as a whole and the recommended guidelines, it would not be against the public interest to allow respondent to maintain a probationary RN license, subject to conditions outlined below, for three years.

ORDER

License Number 383122, issued to Dayla Jene Dirkse, aka Dayla Jene Dirkse Tetley, is REVOKED. However, the revocation is stayed and respondent is placed on probation for a period of three (3) years, subject to the following conditions:

SEVERABILITY

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the full extent permitted by law.

(1) OBEY ALL LAWS

Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the license application process or prior probationary period.

If respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

(2) COMPLY WITH THE BOARD'S PROBATION PROGRAM

Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during the period of suspension.

(3) REPORT IN PERSON

Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE

Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when respondent resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states or territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

Respondent shall comply with the conditions of probation imposed in Washington Commission Case Number 03-10-A-1045RN.

(5) SUBMIT WRITTEN REPORTS

Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verifications of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

(6) FUNCTION AS A REGISTERED NURSE

Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For the purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of his/her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

(7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS

Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance

evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to any prospective employer and immediate supervisors prior to commencement of any other employment in nursing or other health care related position.

In addition to the above, respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

(8) SUPERVISION

Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum – The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate – The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- (c) Minimum – The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- (d) Home Health Care – If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the

individual providing supervision and /or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

(9) EMPLOYMENT LIMITATIONS

Respondent shall not work in any capacity requiring the handling or dispensing of controlled substances, unless the Board or its designee approves otherwise in writing.

Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool during the period of probation, unless the Board or its designee approves otherwise in writing.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall only work on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity unless the Board or its designee approves otherwise in writing.

If respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

(10) COMPLETE A NURSING COURSE

Respondent, at respondent's expense, shall enroll and successfully complete a course relevant to the practice of registered nursing no later than six months prior to the end of respondent's probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course. Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course. The Board shall return the original documents to respondent after photocopying them for its records. The Board may, in its discretion, waive this requirement upon presentation of evidence of training and education completed by respondent during the probationary period furnished by respondent's employer.

(11) COST RECOVERY

Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$1,606. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term

If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

(12) VIOLATION OF PROBATION

If a respondent violates the conditions of this probation, the Board, after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed revocation of respondent's license, or reimpose probation under the same or additional or other terms and conditions as the Board, in its discretion, determines appropriate under the circumstances.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

(13) LICENSE SURRENDER

During respondent's term of probation, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, respondent may surrender respondent's license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its

discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- (1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- (2) One year for a license surrendered for a mental or physical illness.

(16) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS

Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

(17) SUBMIT TO TESTS AND SAMPLES

Respondent, at his/her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and respondent shall be considered in violation of probation.


In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation.

RESTORATION UPON COMPLETION OF PROBATION

Upon successful completion of probation, respondent's license shall be fully restored.

DATED: November 27, 2006


MARILYN A. WOOLLARD
Administrative Law Judge
Office of Administrative Hearings

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Attorneys for Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2006-199

DAYLA JENE DIRKSE TETLEY, aka
DAYLA JENE DIRKSE, aka
DAYLA J. MEYERS
P. O. Box 73
Georgetown, CA 95634

ACCUSATION

Registered Nurse License No. 383122

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about March 31, 1985, the Board of Registered Nursing ("Board") issued Registered Nurse License Number 383122 to Dayla Jene Dirkse Tetley, also known as Dayla Jene Dirkse, also known as Dayla J. Meyers ("Respondent"). The license will expire on October 31, 2006, unless renewed.

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1 a. On or about January 22, 2004, the State of Washington, Department
2 of Heath, Nursing Care Quality Assurance Commission, indefinitely suspended Respondent's
3 State of Washington registered nurse license, Registered Nurse Credential No. RN00115687.
4 The disciplinary action taken against Respondent was based upon the Procedural History,
5 Findings of Fact, and Conclusions of Law contained in the case entitled, "In the Matter of the
6 License to Practice as a Registered Nurse of: Dayla J. Dirkse, RN, Credential No. RN00115687,"
7 Case No. 03-10-A-1045RN. A certified copy of the case entitled, "In the Matter of the License
8 to Practice as a Registered Nurse of: Dayla J. Dirkse, RN, Credential No. RN00115687,"
9 Case No. 03-10-A-1045RN, is attached hereto as "Exhibit A."

10 b. On or about April 24, 2003, the State of Washington, Department
11 of Heath, Nursing Care Quality Assurance Commission, placed Respondent's State of
12 Washington registered nurse license, Registered Nurse Credential No. RN00115687, on
13 probation for twenty-four (24) months, under terms and conditions. The disciplinary action taken
14 against Respondent was based upon the Stipulated Findings of Fact and Conclusions of Law
15 contained in the case entitled, "In the Matter of the License to Practice as a Registered Nurse of:
16 Dayla J. Meyers, Credential No. RN00115687," Case No. 02-10-A-1011RN. A certified copy of
17 the case entitled, "In the Matter of the License to Practice as a Registered Nurse of: Dayla J.
18 Meyers, Credential No. RN00115687," Case No. 02-10-A-1011RN, is attached hereto as
19 "Exhibit B."

20 c. On or about May 17, 2001, the State of Washington, Department of
21 Heath, Nursing Care Quality Assurance Commission, indefinitely suspended Respondent's State
22 of Washington registered nurse license, Registered Nurse Credential No. RN00115687. The
23 disciplinary action taken against Respondent was based upon the Findings of Fact and
24 Conclusions of Law contained in the case entitled, "In the Matter of the License to Practice as a
25 Registered Nurse of: Dayla J. Meyers," Case No. 01-01-A-1021RN. On or about April 29, 2002,
26 the indefinite suspension of Respondent's license was modified, and the license was placed on
27 probation for
28 a minimum of thirty (36) months, under terms and conditions. A certified copy of the Case

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2 entitled, "In the Matter of the License to Practice as a Registered Nurse of: Dayla J. Meyers,
3 Credential No. RN00115687," Case No. 01-01-A-1021RN, is attached hereto as "Exhibit C."

4 **PRAYER**

5 **WHEREFORE**, Complainant requests that a hearing be held on the matters
6 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 7 1. Revoking or suspending Registered Nurse License Number 383122, issued
8 to Dayla Jene Dirkse Tetley, also known as Dayla Jene Dirkse, also known as Dayla J. Meyers;
9 2. Ordering Dayla Jene Dirkse Tetley, also known as Dayla Jene Dirkse, also
10 known as Dayla J. Meyers to pay the reasonable costs incurred by the Board in the investigation
11 and enforcement of this case pursuant to Code section 125.3;
12 3. Taking such other and further action as deemed necessary and proper.

13
14 **DATED:** 4/21/06

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16 
17 RUTH ANN TERRY, M.P.H., R.N.
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California
22 Complainant
23
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28 Tetley.Acc.wpd

rjt 03/16/06